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MAY 06 2005

Docket No.: 4459-147

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Su TAO

U.S. Patent Application No. 10/826,261

Filed: April 19, 2004

For: MICROMACHINE PACKAGE AND METHOD FOR MANUFACTURING THE
SAME

: Confirmation No. 9419

: Group Art Unit: 2815

: Examiner: Chris C. Chu

RESPONSE TO RESTRICTION REQUIREMENTCommissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

By Official Action mailed *April 6, 2005*, restriction to one of the following inventions is required:

- Group I:** Claims 1-19, drawn to a micromachine package, classified in class 257, subclass 678.
- Group II:** Claims 20-23, drawn to a method for manufacturing a plurality of micromachine packages, classified in class 438, subclass 1 +

In response, Applicants hereby elect *Group I*.

Restriction to one of the following species of the invention of Group I is further required:

- Species I:** Micromachine package having a first chip and a second chip, shown in Figs. 4-13, to which claims 1-7 are drawn.
- Species II:** Micromachine package having a first chip and a lid wherein

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pads are formed on the chip, shown in Fig. 16, to which claims 8-13 are drawn.

Species III: Micromachine package having a first chip and a lid wherein pads are formed on the lid, shown in Fig. 18, to which claims 14-19 are drawn.

In response, Applicants hereby elect Species I (FIGs. 4-13).

Claims 1-7 are readable on the elected invention and species.

The invention election was made *with traverse* because (i) the Examiner has failed to demonstrate *why* the hypothetical process mentioned in page 2, lines 5-7 from bottom, of the Restriction Requirement can be regarded as a *materially* different process, and (ii) the search and examination of the entire application can be made *without serious burden*. Inventions II and I are related as process of making and product made. In the relevant art, i.e., semiconductor device design and fabrication, references often describe both the semiconductor device's structure and manufacturing method, as will be apparent to the Examiner upon conducting a search for prior art. Therefore, both Inventions I and II can be covered in a single search. Accordingly, Applicants respectfully submit that the search and examination of the entire application can be made without serious burden on the Examiner.

The species election was made *with traverse*, because the Examiner has failed to follow proper USPTO practice and procedure.

Every requirement to restrict has two aspects:

(A) the reasons (as distinguished from the mere statement of conclusion) why the inventions as claimed are either independent or distinct; and

(B) the reasons for insisting upon restriction therebetween. *See MPEP*, section 808 (emphasis added).

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In this case, the Examiner has met none of the above requirements, simply alleging that the species are distinct without providing any reason whatsoever.

In view of the above, withdrawal of the Restriction Requirement and consideration of *all* claims pending in the instant application are believed appropriate and therefore courteously solicited.

Early examination on the merits is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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